

Message Text

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ACTION EUR-25

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C O N F I D E N T I A L GENEVA 3132

FOR EUR/RPM AND L/EUR

EO 11652 GDS

TAGS PFOR

SUBJ CSCE: SWISS PROPOSAL FOR PEACEFUL SETTLEMENT OF DISPUTES

REF STATE 94674

1. CSCE SPECIAL WORKING BODY HAS NOW HELD THREE SESSIONS ON THE SWISS PROPOSAL FOR THE PEACEFUL SETTLEMENT OF DISPUTES. IN THEIR RESPONSES TO THE SWISS QUESTIONNAIRE (GENEVA A-137), DELEGATIONS GENERALLY KEPT THEIR REMARKS SOMEWHAT GENERAL AND VAGUE; NEVERTHELESS, A PATTERN SEEMS TO BE EMERGING.

2. AS EXPECTED, WESTERN DELEGATIONS GENERALLY SHOWED AN INTEREST IN FURTHER STUDY OF COMPULSORY MEANS TO SETTLE DISPUTES USING, WHERE POSSIBLE, EXISTING MACHINERY. US STATEMENT, CONSISTENT WITH REFTEL, WAS PERHAPS THE STRONGEST IN INDICATING RELATIVELY LITTLE INTEREST IN DISCUSSING CONCILIATION AND ARBITRATION MACHINERY WHICH WOULD BE PROCEDURALLY BINDING BUT THE DECISIONS
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OF WHICH WOULD BE VOLUNTARY. ONLY US MENTIONED THAT DISPUTES

INVOLVING POLITICAL AND SECURITY QUESTIONS SHOULD BE HANDLED BY EXISTING MACHINERY.

3. ONLY SOVIET INTERVENTION THUS FAR APPEARED TO CALL FOR POST-CONFERENCE STUDY ON A BROAD BASIS OF ALL MEANS FOR SETTLING DISPUTES, WITH THE ONLY LIMITATIONS BEING THAT SUCH DELIBERATIONS WOULD BE WITHOUT PREJUDICE TO THE EXISTING UN ORGANIZATIONS AND WOULD NOT AFFECT EXISTING AGREEMENTS. SOVIETS PRIVATELY AND BULGARIANS PUBLICLY HELD OUT THE POSSIBILITY THAT AFTER EXPERTS AGREE ON AN AD HOC SYSTEM, TO BE USED BY PARTIES TO A DISPUTE UPON MUTUAL AGREEMENT, FUTURE EXPERTS' MEETINGS MIGHT BE ABLE TO ISOLATE CERTAIN AREAS IN WHICH COMPULSORY JURISDICTION COULD BE CONSIDERED. BULGARIANS ALSO SAID THAT STUDY OF BINDING ARBITRATION CLAUSES FOR INSERTION IN CERTAIN CATEGORIES OF AGREEMENTS, AS EMPHASIZED BY THE US, MIGHT ALSO BE POSSIBLE FRUITFUL AREA FOR STUDY.

4. DISCUSSIONS WITH MEMBERS OF NINE INDICATE THAT THOUGH NINE WOULD PREFER POST-CONFERENCE STUDY OF ONLY COMPULSORY RECOURSE TO MEANS OF SETTLING DISPUTES, THEY CAN ACCEPT A BROAD MANDATE IF, AS EXPECTED, IT COMES TO THIS. SOME WESTERN DELS ARE HOPEFUL THAT SOVIETS MIGHT BE WILLING TO BREAK NEW BUT LIMITED GROUND AT A POST-CONFERENCE MEETING. THE SWISS SEEM RESIGNED TO FACT THAT THEIR PROPOSAL HAS NO CHANCE OF ADOPTION NOW, BUT THEY HOPE THAT IF IT CAN BE KEPT ALIVE FOR A FEW YEARS, CERTAIN ASPECTS OF IT MIGHT BE REALIZED. THE EAST WOULD LIKE TO CONTINUE DISCUSSION IN A POST-CONFERENCE BODY TO AVOID THE STIGMA OF HAVING KILLED SWISS PROPOSAL AT GENEVA. IN ADDITION, SOVIETS MAY HOPE TO CREATE SOME NEW AD HOC EUROPEAN CONCILIATION BODY WHICH THEY MIGHT UTILIZE TO INJECT THEMSELVES INTO DISPUTES AMONG WESTERN COUNTRIES. THE EAST IS THEREFORE HOLDING OUT ENOUGH HOPE TO THE WEST THAT POST-CONFERENCE STUDY WOULD LEAD TO INTERESTING RESULTS THAT MANY WESTERN DELEGATIONS WILL BE INTERESTED IN THE PROPOSED POST-CONFERENCE MEETING OF EXPERTS.

5. ONE WAY FOR US TO MAKE SURE THAT THERE WILL BE NO POST-CONFERENCE STUDY OF PEACEFUL SETTLEMENT OF DISPUTES DEALING WITH POLITICAL AND SECURITY MATTERS MIGHT BE TO INSIST THAT THE EXPERTS STUDY ONLY MEANS INVOLVING COMPULSORY RECOURSE TO SETTLEMENT, WHICH WE KNOW THE EAST CANNOT ACCEPT AND CONFIDENTIAL

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WHICH WOULD PROBABLY RESULT IN NO POST-CONFERENCE MEETING. ANOTHER POSSIBILITY, OF COURSE, WOULD BE TO INSIST THAT ANY NEW PEACEFUL SETTLEMENT SYSTEM CREATED WILL NOT DEAL WITH SUCH MATTERS. THE US UNDOUBTEDLY WOULD BE ISOLATED IN TAKING THE FIRST POSITION, AND IT IS UNCLEAR HOW MANY OF THE ALLIES WOULD FOLLOW US IN THE SECOND. IN THE ABSENCE OF A STRONG STAND ON OUR PART, IT WOULD APPEAR THAT WE ARE HEADED FOR A BROAD POST-CONFERENCE STUDY OF PEACEFUL SETTLEMENT OF DISPUTES

INCLUDING POLITICAL/SECURITY DISPUTES. HOWEVER, A POST-CONFERENCE MEETING OF EXPERTS WILL UNDOUBTEDLY BE ON THE BASIS OF CONSENSUS, SO THAT US WILL MAINTAIN ITS VETO OVER SETTING UP ANY NEW MACHINERY WHICH WILL HAVE SECURITY AND POLITICAL JURISDICTION.

6. STATE 94674 REQUESTS DELEGATION ATTEMPT TACTICALLY TO PREVENT A POST-CONFERENCE MEETING ON PEACEFUL SETTLEMENT CAUSING SLIPPAGE TOWARD ESTABLISHMENT OF POST-CONFERENCE PERMANENT MACHINERY WITH A POLITICAL/SECURITY MANDATE. WE ASSUME DEPARTMENT IS CONCERNED THAT DISCUSSIONS IN THE SPECIAL WORKING BODY NOT FEED OVER INTO BASKET IV IN SUCH A WAY THAT ARGUMENTS CAN BE INTRODUCED THAT THE GENERAL FOLLOW-UP ACTIVITY MUST HAVE POLITICAL AND SECURITY JURISDICTION SO AS TO SUPERVISE AND COORDINATE ADEQUATELY THE DELIBERATIONS OF THE MEETING OF EXPERTS ON PEACEFUL SETTLEMENT. THERE ARE NO SIGNS YET THAT THIS IS HAPPENING AND SEVERAL ALLIES WITH WHOM WE HAVE DISCUSSED PROBLEM DO NOT CONSIDER IT LIKELY. SHOULD GENERAL FOLLOW-UP ACTIVITY BE ASSIGNED A COORDINATING FUNCTION, GENERAL POLITICAL AND SECURITY JURISDICTION SHOULD NOT BE NECESSARY TO DISCHARGE THIS DUTY. EXISTENCE OF THE PEACEFUL SETTLEMENT MEETING OF EXPERTS MIGHT CAUSE FOLLOW-UP TO DRIFT TOWARD POLITICAL AND SECURITY MATTERS IN SOME WAY AFTER CONCLUSION OF THE CONFERENCE, BUT THIS IS DIFFICULT TO FORESEE OR PREDICT AT THIS TIME.

7. DELEGATION INTENDS TO PUSH FOR DEPARTMENT PREFERENCES SET FORTH REFTTEL BUT WILL GO ALONG WITH EVENTUAL CONSENSUS IN ABSENCE OF FURTHER INSTRUCTIONS.ABRAMS

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